

## North Carolina 2005 Legislative Initiatives and Sample Language

### One Federal Post Card Application for All Elections.

The *National Defense Authorization Act of Fiscal Year 2002* states that, “If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed service voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered an application for an absentee ballot for each subsequent election For Federal office held in the State during that year, the State shall provide an absentee ballot to the voter for each subsequent election for Federal office held in the State during that year.” This section was amended by the *Help America Vote Act of 2002* to extend the period covered by the single absentee ballot application through the next two regularly scheduled general elections for Federal office. We strongly recommend legislation be enacted to include North Carolina residents who registered locally prior to January 1, 2004 (when this provision of *HAVA* was enacted) and then go overseas to be able to use one FPCA for all elections through the next two regularly scheduled general elections for Federal office. These citizens currently must send in a FPCA or written request before each election.

### State Write-In Absentee Ballot

We recommend that North Carolina provide a state write-in absentee ballot for all elections. The purpose of the state write-in absentee ballot is to **provide a method for voting by military and other persons overseas who, due to military contingencies or special circumstances such as those faced by submariners, Peace Corps volunteers, missionaries or others in remote areas, will be out of communication for extended periods of time and unable to receive the regular ballot from your state in the normal time frame.** A voter could request a state write-in absentee ballot 90 days in advance and write in the names of the candidates or party preferences. The voter knows in advance that he or she will not be able to receive, vote, and return the regular ballot from the state in time to be counted. **Twenty-seven** states now provide state write-in absentee ballots.

This state write-in absentee ballot should not be confused with the Federal Write-In Absentee Ballot (FWAB) that is prepositioned at Embassies and Consulates, military installations, overseas organizations and corporations. In comparison, the FWAB is generally only available to military stationed overseas and overseas citizens who have already applied for a regular ballot from the state. They do not know in advance that they need the FWAB. However, if the regular ballot from the state does not arrive in sufficient time for the voter to return the voted ballot and meet the state deadline, these voters may obtain, vote, and return the FWAB to the local election official.

It is also important to note that a state write-in ballot usually provides a “full” slate of offices to be voted upon including Federal, state, and local offices. On the other hand, the FWAB generally allows voting only for Federal offices.

### Sample Language

*If the voter is a U.S. citizen residing outside the United States or a member of the United States Uniformed Services, merchant marine, or family member and a qualified elector, he or she may request, not earlier than 180 days before an election, a state write-in absentee ballot. The voter must submit with the request a statement that provides that due to military or other contingencies that preclude normal mail delivery, the elector cannot vote an absentee ballot during the normal absentee voting period. The ballot will be available 90 to 180 days before the election.*

### **Electronic Transmission of Election Materials**

Since the 1990 general election, faxing has proven to be a valuable alternative method for facilitating the enfranchisement of Uniformed Services members and overseas citizens who may have otherwise been unable to vote. This initiative has helped to ensure that these citizens were not disenfranchised by allowing them to cast a ballot when they would not otherwise have been able to vote due to time and location constraints.

Please consider expanding the use of modern technology to overseas citizens. We realize that North Carolina allows the submission of the Federal Post Card Application for registration and absentee ballot request by overseas citizens. However, this should be extended to allow the faxing of the blank and voted ballot to these citizens from your state as you have done for Uniformed Services members. Thus, we strongly encourage expanded use of this alternative to include the transmission of the blank ballot by fax to **all UOCAVA** voters and the acceptance of the voted ballot from **all UOCAVA** citizens where circumstances would otherwise disenfranchise them.

### **Sample Language**

*An applicant, who is a member of the United States Uniformed Services, merchant marine, a family member, or a qualified elector living outside the United States, may apply for registration and an absentee ballot by electronic transmission if otherwise qualified to apply for and vote by absentee ballot. Election officials may receive absentee ballot applications, send blank ballots and accept voted ballots from eligible electors via electronic transmission.*

### **Expand Use of Federal Write-In Absentee Ballot**

Currently the Federal Write-In Absentee Ballot (FWAB) may be used only in general elections for Federal offices only. This ballot is prepositioned worldwide at Embassies and Consulates, military installations and overseas organizations and corporations with American membership. By **expanding its use to include special, primary and runoff elections for Federal offices**, citizens would not be disenfranchised because regular ballots are not received in a timely manner. Frequently, there is insufficient time between the call for a special election and the actual election and between primary and runoff elections. Allowing use of the FWAB in these elections would reduce the possible need for legal action when insufficient time exists for the ballot to be received, voted and returned to be counted. During the 1996 primaries, on an *ad hoc* basis, several states and jurisdictions allowed the FWAB to be used for offices other than Federal offices. **Eleven** other states have legislatively expanded its use beyond the Federal law.

In addition, for those citizens that desire to vote in elections for Federal office only, the acceptance of the FWAB transmission envelope as **a request for registration**

**simultaneously with the submission of the FWAB** would further simplify the process, improve on transit time and help ensure enfranchisement. It should be noted that the information requested on the FWAB transmission envelope is basically the same as the information requested from the voter on the Federal Post Card Application (FPCA). We recommend the FWAB transmission envelope and FWAB be accepted simultaneously as a registration form and ballot by the state for general elections and Federal offices if:

- (1) the information submitted complies with the state's registration requirements;
- (2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted;
- (3) the request is received by the appropriate state election official not less than 30 days before the election or by the registration deadline established by the state.

The adoption of this initiative would save the state money and alleviate administrative responsibilities on the part of the local election official.

### **Sample Language**

- Expanded use of the FWAB:

*If the voter is residing outside the United States or a member of the United States Uniformed Services, merchant marine, or a family member and a qualified elector, he or she may use the Federal Write-In Absentee Ballot in general, special, primary, and run-off elections for local, state and Federal offices.*

- Use of FWAB as a Combined Request for Registration and Ballot Submission:

*If the voter is residing outside the United States, or is a member of the United States Uniformed Services, merchant marine, or a family member, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot (FWAB) transmission envelope as a request for registration simultaneously with the submission of the FWAB if:*

- (1) the information submitted complies with the registration requirements of the state;*
- (2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted; and*
- (3) the request is received by the appropriate state election official not less than 30 days before the election or by the registration deadline established by the state.*

### **Late Registration Procedures**

We realize that North Carolina currently **allows persons recently separated from the**

**Armed Forces to register and vote in person up to and including election day.** We recommend expanding this option to Uniformed Services family members and to citizens returning from overseas employment. Many of these citizens go through a transition period and may reside in your state just prior to an election. This time frame does not meet your state's normal residency requirements. Often, the date of discharge or termination of overseas employment and a state's registration requirement combine to disenfranchise a citizen. Special procedures to allow these persons to register and vote would solve this problem. **Twenty-six** states currently allow such procedures.

**Sample Language**

*An individual, or accompanying family member who has been discharged or separated from the Uniformed Services or from employment outside the territorial limits of the United States, too late to enable him or her to register by the regular state deadline for registration, shall be entitled to register for the purpose of voting at the next ensuing election after such discharge, separation, or termination of employment.*

**Enfranchise Citizens Who Have Never Resided in the U.S.**

There are many U.S. citizens who have never resided in a state and under current law are not entitled to vote. These are usually first or second-generation citizens who are subject to U.S. income tax and all other requirements of citizens. Except for the fact that they have never resided in a state, they would be eligible to vote in Federal elections. Some local election officials make exceptions and allow these citizens to vote. **Thirteen** states have passed legislation allowing these citizens to claim the legal residence of a parent. **We recommend these citizens be allowed to vote in elections for Federal offices** where either parent is eligible to vote under *UOCAVA*.

**Sample Language**

*If a U.S. citizen outside the United States who has never lived in the United States has a parent who is a qualified elector, then that person is eligible to register and vote where his or her parent is a qualified elector.*